

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TYLER DIVISION**

\_\_\_\_\_  
SAXON INNOVATIONS, LLC,

Plaintiff,

v.

CASIO COMPUTER CO., LTD.,  
a Japanese Corporation,

CASIO CORPORATION  
OF AMERICA, INC.,  
a Delaware Corporation,

KYOCERA CORPORATION,  
a Japanese Corporation,

KYOCERA WIRELESS CORPORATION,  
a Delaware Corporation,

KYOCERA COMMUNICATIONS, INC.,  
a Delaware Corporation,

SANYO ELECTRIC CO., LTD.,  
a Japanese Corporation,

SANYO NORTH AMERICA  
CORPORATION,  
a Delaware Corporation,

SIERRA WIRELESS AMERICA, INC.  
a Delaware Corporation,

SIERRA WIRELESS, INC.,  
a Canadian (B.C.) Corporation,

PANASONIC CORPORATION,  
a Japanese Corporation,

PANASONIC CONSUMER  
ELECTRONICS COMPANY,

Civil Action No. 6:09cv270

**JURY TRIAL DEMANDED**

a Delaware Corporation, and	)
	)
PANASONIC CORPORATION	)
OF NORTH AMERICA,	)
a Delaware Corporation,	)
	)
PANASONIC COMMUNICATIONS	)
CORPORATION OF AMERICA,	)
a Delaware Corporation, and	)
	)
UTSTARCOM, INC.,	)
a Delaware Corporation,	)
	)
Defendants.	)
_____	)

**PLAINTIFF’S OPPOSED MOTION FOR LEAVE TO FILE A THIRD  
AMENDED COMPLAINT AND TO DISMISS  
CERTAIN KYOCERA DEFENDANTS**

Plaintiff Saxon Innovations, LLC, (“Saxon”) by and through its undersigned attorneys, files this Motion for Leave to File a Third Amended Complaint against Defendants Casio Computer Co., Ltd., Casio Corporation of America, Inc., Kyocera Corporation, Kyocera Wireless Corporation, Kyocera Communications, Inc., Sanyo Electric Co., Ltd., Sanyo North America Corporation, Sierra Wireless America, Inc., Sierra Wireless, Inc., Panasonic Corporation, Panasonic Consumer Electronics Company, Panasonic Corporation of North America, Panasonic Communications Corporation of America, and UTStarcom, Inc. (collectively “Defendants”). In support hereof, Saxon states as follows:

1. On June 17, 2009, Saxon filed an original Complaint. *See* Docket Entry (“D.E.”) 1.

2. On June 25, 2009, Saxon filed a First Amended Complaint. The First Amended Complaint corrected a typographical error in the original Complaint. *See* D.E.

4.

3. On September 29, 2009, Saxon filed a Motion for Leave to File a Second Amended Complaint. *See* D.E. 7-01. In the Second Amended Complaint, Saxon made the following changes. First, Saxon corrected the state of incorporation of defendant Kyocera Wireless Corporation. Second, Saxon withdrew its assertions against defendant Panasonic Electronic Devices Corporation of America and added assertions against Panasonic Communications Corporation of America. Third, Saxon added a non-limiting list of examples of infringing products for each defendant and asserted patent. Fourth, Saxon withdrew all claims of infringement of U.S. Patent No. 5,247,621.

4. The Court granted Saxon's Motion for Leave to File a Second Amended Complaint on October 5, 2009. *See* D.E. 9.

5. In the Third Amended Complaint, Saxon seeks to modify the Second Amended Complaint as follows. First, Saxon seeks to withdraw all assertions and claims against defendants Kyocera International, Inc. and Kyocera America, Inc. Saxon further seeks to dismiss without prejudice defendants Kyocera International, Inc. and Kyocera America, Inc. Second, Saxon seeks to add Kyocera Communications, Inc. as a defendant. Saxon's Third Amended Complaint is filed concurrently with this motion.

6. Fed. R. Civ. P. 15(a) requires that a "court should freely give leave when justice so requires." The only defendants that have filed an Answer are Sierra Wireless America, Inc. and Sierra Wireless Inc. *See* D.E. 39 and 40. Therefore, none of the

Defendants would be prejudiced if the Court grants Saxon's Motion for Leave to File a Third Amended Complaint. Indeed, the Kyocera defendants do not oppose this motion.

WHEREFORE, Plaintiff requests that this Honorable Court grant leave for Saxon to amend its Complaint, dismiss without prejudice defendants Kyocera International, Inc. and Kyocera America, Inc., and grant such further relief as this Court deems just and proper.

Dated: December 23, 2009

Respectfully Submitted,

/s/ Michael T. Renaud

William D. Belanger, BBO# 657184

belangerw@pepperlaw.com

Michael T. Renaud, BBO# 629783

renaudm@pepperlaw.com

(both admitted *pro hac vice*)

**PEPPER HAMILTON LLP**

125 High Street

15th Floor, Oliver Street Tower

Boston, MA 02110

Phone: (617) 204-5100

Fax: (617) 204-5150

T. John Ward, Jr.

State Bar No. 00794818

**WARD & SMITH LAW FIRM**

111 W. Tyler St.

Longview, Texas 75601

Phone (903) 757-6400

Fax (903) 757-2323

E-mail: jw@jwfirm.com

Counsel for Plaintiff

### **CERTIFICATE OF CONFERENCE**

I certify that, in filing this motion, Counsel for Saxon Innovations, LLC (“Saxon”), attempted to confer with counsel of record for Casio Computer Co., Ltd., Casio Corporation of America, Inc., Kyocera Corporation, Kyocera Wireless Corporation, Kyocera Communications, Inc., Kyocera International, Inc. and Kyocera America, Inc., Sanyo Electric Co., Ltd., Sanyo North America Corporation, Sierra Wireless America, Inc., Sierra Wireless, Inc., Panasonic Corporation, Panasonic Consumer Electronics Company, Panasonic Corporation of North America, Panasonic Communications Corporation of America, and UTStarcom, Inc., most recently on December 17, 2009. The Kyocera defendants do not oppose this motion. However, counsel for the other defendants have not responded to Saxon’s requests to meet and confer and, therefore, Saxon assumes that this motion is opposed.

/s/ Michael T. Renaud

Michael T. Renaud

### **CERTIFICATE OF SERVICE**

I hereby certify that counsel of record who are deemed to have consented to electronic service are being served this 23rd day of December, 2009, with a copy of this document via the Court’s CM/ECF system per Local Rule CV-5(a)(3). Any other counsel of record will be served by electronic mail, facsimile transmission and/or first class mail on this same date.

/s/ Michael T. Renaud

Michael T. Renaud